IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 13240 of 2007(A)

PETITIONER:

M/S.A.B.B.B LTD, (FORMERLY KNOWN AS
ASEA BROWN BOVERI LTD.), 35/280 A, MANALE
MADATHIL, MAMANGALAM, PALARIVATTOM, KOCHI-25,
ERNAKULAM, REP. BY ITS ASST.VICE PRESIDENT,
MR.SANTOSH KUMAR HEGDE.

BY ADV. SMT.LATHA K.

RESPONDENTS:
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1. THE STATE OF KERALA REP. BY CHIEF
SECRETARY, SECRETRIAT,THIRUVANANTHAPURAM.

2. ASST.COMMISSIONER (WORKS CONTRACT),
COMMERCIAL TAX OFFICER, (WC & LT),
O/O.THE DEPUTY COMMISSIONER, COMMERCIAL TAXES,
ERNAKULAM.

3. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.

BY G.P. SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 13240 OF 2007

Dated this the 25th day of June, 2007

JUDGMENT

Petitioner is challenging Exts. P3 and P4 assessment orders issued for the years 2002-03 and 2003-04 on the ground that orders are issued without giving opportunity and in violation of Section 17(3) of the KGST Act. Government Pleader reported that notice sent to petitioner's address was returned unserved and therefore service was completed by affixture. It is seen that Officer did not take note of the change in the name and address of the company which was effected in 2005. It is strange that Officer handles the matter in such a casual manner because even after company started filing returns with the changed name and address, the order is issued in the old name. Therefore it is the indifference of the Officer that resulted in this situation. W.P. is therefore disposed of directing the Officer to give a posting date to the petitioner for production of books of accounts, hear the petitioner, issue pre-assessment notice and complete the assessment afresh for the above two years within six weeks from today. Petitioner

will produce a copy of this judgment and appear on the date of posting and co-operate with the assessment proceedings. As and when revised orders are issued, the assessing officer will recall Exts. P3 and P4. However, if the petitioner does not produce books of accounts and co-operate in the enquiry proceedings, Officer can record the same and proceed for recovery based on Exts. P3 and P4 after six weeks. No recovery proceedings will be initiated for six weeks, and thereafter recovery will be based on orders as stated above.

(C.N.RAMACHANDRAN NAIR)
Judge